THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.25958 OF 2005

Dated: 06-12-2005

Between

Shaik Rahamthumaiah, S/o. Shaik Fakruddin, Occ: Unemployed, R/o. D.No.19/399,Haji Gattar Sahed Street, Cuddapah Town & District.

...PETITIONER

AND

The Municipal Corporation of Cuddapah, Represented by its Commissioner, Cuddapah, Cuddapah District and others.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents in seeking to demolish the commercial shop of the petitioner situated in D.No.3-270 on the eastern side of the NTR statue of R.S.Road, Kadapa City & District for the purpose of road widening without following due process of law as illegal.

Learned counsel for the petitioner submits that the Kadapa municipality has been recently upgraded as Municipal Corporation.

In view of the traffic congestion and to have free flow of traffic the Kadapa Municipal Corporation has decided to widen the roads, for which they have identified 26 roads in the entire kadapa municipal corporation. Learned counsel for the petitioner further submits that the petitioner is not at all against the road-widening programme of the respondents and he has no objection for the said programme if his premises are acquired and if proper

compensation is paid.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for their structures or the lands and without following due process of law, are threatening the to demolish the existing structures of the petitioner for the purpose of road-widening.

The learned counsel for the petitioner further submit that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well Sections 146 and 147 of the Municipal Corporation Act, 1955 (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess him without following due process of law under Sections 146 and 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

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V. ESWARAIAH, J

December 6, 2005

Note: Furnish C.C. of the order by 08.12.2005

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